

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF ARIZONA**

3 IN RE BARD IVC FILTERS
4 PRODUCTS LIABILITY LITIGATION

5 No. 2:15-MD-02641 -DGC

6 This Document Relates to:

7 Sherri Hughes
8 Civil Action No.: 2:17-cv-04243-DGC

9 **UNOPPOSED MOTION TO SUBSTITUTE PARTY PLAINTIFF AND FOR**
10 **LEAVE TO AMEND SHORT FORM COMPLAINT**

11 Counsel, pursuant to Rule 25 (a)(1) of the Federal Rules of Civil Procedure, moves this
12 Court for an Order substituting Daniel Barker on behalf of his wife, Sherri Hughes.

13 1. Sherri Hughes filed a products liability lawsuit against Defendants on November
14 17, 2017, in the District of Arizona – MDL No. 2:15-MD-02641.

15 2. On April 12, 2018, Plaintiff filed and served a Suggestion of Death [Doc
16 10706].

17 3. Daniel Barker surviving spouse of Sherri Hughes, is the proper party to substitute
18 for Plaintiff-decedent Sherri Hughes and has proper capacity forward with the surviving
19 products liability lawsuit on her behalf, pursuant to Fed. R. Civ. P. 25(a)(1). “If a party dies
20 and the claim is not extinguished, the Court may order substitution of the proper party. A
representative.”

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4. Daniel Barker further seeks leave to file the attached amended short form complaint to substitute himself as Plaintiff on behalf of Plaintiff-decedent Sherri Hughes and to add survival action claims (see Amended Short Form Complaint, attached hereto).

5. Plaintiff's counsel has conferred with the Defendant's counsel and Defendants do not oppose the filing of this motion.

6. Based on the foregoing, Daniel Barker requests that this Court grant his request for substitution of Plaintiff in this action and for the leave to file the Amended Short Form Complaint.

Date: July 10, 2018

Respectfully submitted,

LOPEZ McHUGH LLP

By /s/Matthew R. Lopez
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Attorneys for Plaintiff

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 10th day of July, 2018, I electronically transmitted the
3 attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of
4 a Notice of Electronic Filing.

5 */s/Matthew R. Lopez* _____

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